

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

MALIBU MEDIA, LLC,)	
)	
Plaintiff,)	Civil No.: 8:14-cv-02341-SDM-EAJ
)	
v.)	
)	
JOHN DOE subscriber assigned IP address)	
72.184.248.129,)	
)	
Defendant.)	
)	

PLAINTIFF’S RESPONSE TO THE COURT’S ORDER TO SHOW CAUSE

Plaintiff, Malibu Media, LLC (“Plaintiff”), by and through undersigned counsel hereby responds to the Court’s Order to Show Cause (CM/ECF 12), and files this memorandum in support.

1. On September 12, 2014, the paralegal at undersigned’s office in charge of calendaring deadlines and filing motions went on maternity leave.

2. On September 17, 2014, Plaintiff filed its complaint for direct copyright infringement against Defendant. CM/ECF 1.

3. The practice of undersigned’s firm is generally to file the Motion for Leave to Serve a Third Party Subpoena Prior to a Rule 26(f) Conference on the same day as the complaint.

4. Although Plaintiff’s Motion had been drafted and was ready for filing, the paralegal hired to replace the paralegal who left was still getting acquainted with this office’s practices and procedures and trying to familiarize herself with the firm’s expansive caseload and status of each case.

5. Because of the transition between office staff, Plaintiff’s Motion was

unintentionally not filed with the complaint.

6. This deviation occurred in a very small number of cases and was caused by the staffing transition. Until the firm engaged in a periodic internal audit of the lawsuits which it filed and oversees, this mistake was not caught. As soon as it was noticed however remedial action was taken.

7. On December 1, 2014, the Motion was filed. CM/ECF 5.

8. On December 2, 2014, this Court granted Plaintiff's Motion. CM/ECF 9.

9. The subpoena to Defendant's ISP was issued that same day.

10. On January 14, 2015, the day before the expiration of the deadline to serve the Defendant, Plaintiff filed a Motion for Extension of Time notifying the Court that the Defendant's identifying information had not yet been received from his or her ISP. Accordingly, service of process was not possible.

11. That same day Defendant filed a Motion to Quash, Motion for Protective Order, and Motion to Dismiss. CM/ECF 11.

12. The deadline for serving the Defendant expired the following day, January 15, 2014.

13. Plaintiff has still not yet received Defendant's identity from his or her ISP and is therefore unable to effectuate service of process.

WHEREFORE, Plaintiff respectfully requests this Court discharge the Order to Show Cause without dismissing the instant action.

DATED: January 22, 2014.

Respectfully submitted,

By: /s/ M. Keith Lipscomb
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CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2015, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that service was perfected on all counsel of record and interested parties through this system.

By: /s/ M. Keith Lipscomb